

## Union Calendar No.

107<sup>TH</sup> CONGRESS  
2D SESSION

# H. R. 4635

[Report No. 107-    ]

To amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2002

Mr. YOUNG of Alaska (for himself and Mr. MICA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY       , 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 1, 2002]

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## A BILL

To amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Arming Pilots Against*  
3 *Terrorism Act”.*

4 **SEC. 2. FEDERAL FLIGHT DECK OFFICER PROGRAM.**

5 *(a) IN GENERAL.—Subchapter I of chapter 449 of title*  
6 *49, United States Code, is amended by adding at the end*  
7 *the following:*

8 **“§ 44921. Federal flight deck officer program**

9 *“(a) ESTABLISHMENT.—The Under Secretary of*  
10 *Transportation for Security shall establish a pilot program*  
11 *to deputize volunteer pilots of air carriers providing air*  
12 *transportation or intrastate air transportation as Federal*  
13 *law enforcement officers to defend the flight decks of aircraft*  
14 *of such air carriers against acts of criminal violence or air*  
15 *piracy. Such officers shall be known as ‘Federal flight deck*  
16 *officers’.*

17 *“(b) PROCEDURAL REQUIREMENTS.—*

18 *“(1) IN GENERAL.—Not later than 2 months*  
19 *after the date of enactment of this section, the Under*  
20 *Secretary shall establish procedural requirements to*  
21 *carry out the program under this section.*

22 *“(2) COMMENCEMENT OF PROGRAM.—Beginning*  
23 *2 months after the date of enactment of this section,*  
24 *the Under Secretary shall begin the process of select-*  
25 *ing, training, and deputizing pilots as Federal flight*  
26 *deck officers under the program; except that, if the*



1        *procedures required under paragraph (1) are not es-*  
2        *tablished before the last day of such 2-month period,*  
3        *the Under Secretary shall not begin the process of se-*  
4        *lecting, training, and deputizing pilots until the date*  
5        *on which the procedures are established or the last*  
6        *day of the 4-month period beginning on such date of*  
7        *enactment, whichever occurs first.*

8                *“(3) ISSUES TO BE ADDRESSED.—The proce-*  
9        *dural requirements established under paragraph (1)*  
10       *shall address the following issues:*

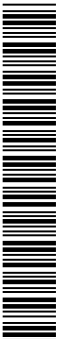
11                *“(A) The type of firearm to be used by a*  
12       *Federal flight deck officer.*

13                *“(B) The type of ammunition to be used by*  
14       *a Federal flight deck officer.*

15                *“(C) The standards and training needed to*  
16       *qualify and requalify as a Federal flight deck of-*  
17       *ficer.*

18                *“(D) The placement of the firearm of a Fed-*  
19       *eral flight deck officer on board the aircraft to*  
20       *ensure both its security and its ease of retrieval*  
21       *in an emergency.*

22                *“(E) Analyze the risk of catastrophic failure*  
23       *of an aircraft as a result of the discharge of a*  
24       *firearm to be used in the program into the avi-*



1            *onics, electrical systems, or other sensitive areas*  
2            *of the aircraft.*

3            *“(F) The division of responsibility between*  
4            *pilots in the event of an act of criminal violence*  
5            *or air piracy if only one pilot is a Federal flight*  
6            *deck officer and if both pilots are Federal flight*  
7            *deck officers.*

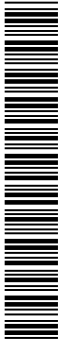
8            *“(G) Procedures for ensuring that the fire-*  
9            *arm of a Federal flight deck officer does not leave*  
10           *the cockpit if there is a disturbance in the pas-*  
11           *senger cabin of the aircraft or if the pilot leaves*  
12           *the cockpit for personal reasons.*

13           *“(H) Interaction between a Federal flight*  
14           *deck officer and a Federal air marshal on board*  
15           *the aircraft.*

16           *“(I) The process for selection of pilots to*  
17           *participate in the program based on their fitness*  
18           *to participate in the program.*

19           *“(J) Storage and transportation of firearms*  
20           *between flights, including international flights,*  
21           *to ensure the security of the firearms.*

22           *“(K) Methods for ensuring that security*  
23           *personnel will be able to identify whether a pilot*  
24           *is authorized to carry a firearm under the pro-*  
25           *gram.*



1           “(L) *Methods for ensuring that pilots (in-*  
2           *cluding Federal flight deck officers) will be able*  
3           *to identify whether a passenger is a law enforce-*  
4           *ment officer who is authorized to carry a firearm*  
5           *aboard the aircraft.*

6           “(M) *Any other issues that the Under Sec-*  
7           *retary considers necessary.*

8           “(4) *PREFERENCE.—In selecting pilots to par-*  
9           *ticipate in the program, the Under Secretary shall*  
10          *give preference to pilots who are former military or*  
11          *law enforcement personnel.*

12          “(5) *CLASSIFIED INFORMATION.—Notwith-*  
13          *standing section 552 of title 5 but subject to section*  
14          *40119 of this title, information developed under para-*  
15          *graph (3)(E) shall not be disclosed.*

16          “(6) *NOTICE TO CONGRESS.—The Under Sec-*  
17          *retary shall provide notice to the Committee on*  
18          *Transportation and Infrastructure of the House of*  
19          *Representatives and the Committee on Commerce,*  
20          *Science, and Transportation of the Senate after com-*  
21          *pleting the analysis required by paragraph (3)(E).*

22          “(c) *TRAINING, SUPERVISION, AND EQUIPMENT.—*

23               “(1) *IN GENERAL.—The Under Secretary shall*  
24               *provide the training, supervision, and equipment nec-*  
25               *essary for a pilot to be a Federal flight deck officer*



1       *under this section at no expense to the pilot or the air*  
2       *carrier employing the pilot.*

3           “(2) *TRAINING.*—

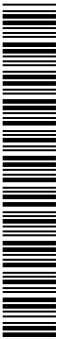
4               “(A) *IN GENERAL.*—*The Under Secretary*  
5       *shall base the requirements for the training of*  
6       *Federal flight deck officers under subsection (b)*  
7       *on the training standards applicable to Federal*  
8       *air marshals; except that the Under Secretary*  
9       *shall take into account the differing roles and re-*  
10       *sponsibilities of Federal flight deck officers and*  
11       *Federal air marshals.*

12           “(B) *ELEMENTS.*—*The training of a Fed-*  
13       *eral flight deck officer shall include, at a min-*  
14       *imum, the following elements:*

15               “(i) *Training to ensure that the officer*  
16       *achieves the level of proficiency with a fire-*  
17       *arm required under subparagraph (C)(i).*

18               “(ii) *Training to ensure that the officer*  
19       *maintains exclusive control over the officer’s*  
20       *firearm at all times, including training in*  
21       *defensive maneuvers.*

22               “(iii) *Training to assist the officer in*  
23       *determining when it is appropriate to use*  
24       *the officer’s firearm and when it is appro-*  
25       *priate to use less than lethal force.*



1 “(C) *TRAINING IN USE OF FIREARMS.*—

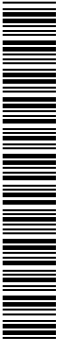
2 “(i) *STANDARD.*—*In order to be depu-*  
3 *tized as a Federal flight deck officer, a pilot*  
4 *must achieve a level of proficiency with a*  
5 *firearm that is required by the Under Sec-*  
6 *retary. Such level shall be comparable to the*  
7 *level of proficiency required of Federal air*  
8 *marshals.*

9 “(ii) *CONDUCT OF TRAINING.*—*The*  
10 *training of a Federal flight deck officer in*  
11 *the use of a firearm may be conducted by*  
12 *the Under Secretary or by a firearms train-*  
13 *ing facility approved by the Under Sec-*  
14 *retary.*

15 “(iii) *REQUALIFICATION.*—*The Under*  
16 *Secretary shall require a Federal flight deck*  
17 *officer to requalify to carry a firearm under*  
18 *the program. Such requalification shall*  
19 *occur quarterly or at an interval required*  
20 *by a rule issued under subsection (i).*

21 “(d) *DEPUTIZATION.*—

22 “(1) *IN GENERAL.*—*The Under Secretary may*  
23 *deputize, as a Federal flight deck officer under this*  
24 *section, a pilot who submits to the Under Secretary*



1       *a request to be such an officer and whom the Under*  
2       *Secretary determines is qualified to be such an officer.*

3               “(2) *QUALIFICATION.—A pilot is qualified to be*  
4       *a Federal flight deck officer under this section if—*

5               “(A) *the pilot is employed by an air car-*  
6       *rier;*

7               “(B) *the Under Secretary determines that*  
8       *the pilot meets the standards established by the*  
9       *Under Secretary for being such an officer; and*

10              “(C) *the Under Secretary determines that*  
11       *the pilot has completed the training required by*  
12       *the Under Secretary.*

13              “(3) *DEPUTIZATION BY OTHER FEDERAL AGEN-*  
14       *CIES.—The Under Secretary may request another*  
15       *Federal agency to deputize, as Federal flight deck offi-*  
16       *cers under this section, those pilots that the Under*  
17       *Secretary determines are qualified to be such officers.*

18              “(4) *MAXIMUM NUMBER.—The maximum num-*  
19       *ber of pilots that may be deputized under the pilot*  
20       *program as Federal flight deck officers may not ex-*  
21       *ceed 2 percent of the total number of pilots that are*  
22       *employed by air carriers engaged in air transpor-*  
23       *tation or intrastate transportation on the date of en-*  
24       *actment of this section.*





1           “(5) *REVOCATION.*—*The Under Secretary may*  
2           *revoke the deputization of a pilot as a Federal flight*  
3           *deck officer if the Under Secretary finds that the pilot*  
4           *is no longer qualified to be such an officer.*

5           “(e) *COMPENSATION.*—*Pilots participating in the pro-*  
6           *gram under this section shall not be eligible for compensa-*  
7           *tion from the Federal Government for services provided as*  
8           *a Federal flight deck officer. The Federal Government and*  
9           *air carriers shall not be obligated to compensate a pilot for*  
10           *participating in the program or for the pilot’s training or*  
11           *qualification and requalification to carry firearms under*  
12           *the program.*

13           “(f) *AUTHORITY TO CARRY FIREARMS.*—

14           “(1) *IN GENERAL.*—*The Under Secretary shall*  
15           *authorize, while the program under this section is in*  
16           *effect, a Federal flight deck officer to carry a firearm*  
17           *while engaged in providing air transportation or*  
18           *intrastate air transportation. Notwithstanding sub-*  
19           *section (c)(1), the officer may purchase a firearm and*  
20           *carry that firearm aboard an aircraft of which the of-*  
21           *ficer is the pilot in accordance with this section if the*  
22           *firearm is of a type that may be used under the pro-*  
23           *gram.*

24           “(2) *PREEMPTION.*—*Notwithstanding any other*  
25           *provision of Federal or State law, a Federal flight*



1       *deck officer, whenever necessary to participate in the*  
2       *program, may carry a firearm in any State and from*  
3       *one State to another State.*

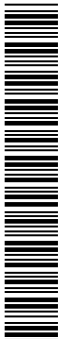
4           “(3) *CARRYING FIREARMS OUTSIDE UNITED*  
5       *STATES.—In consultation with the Secretary of State,*  
6       *the Under Secretary may take such action as may be*  
7       *necessary to ensure that a Federal flight deck officer*  
8       *may carry a firearm in a foreign country whenever*  
9       *necessary to participate in the program.*

10          “(g) *AUTHORITY TO USE FORCE.—Notwithstanding*  
11       *section 44903(d), the Under Secretary shall prescribe the*  
12       *standards and circumstances under which a Federal flight*  
13       *deck officer may use, while the program under this section*  
14       *is in effect, force (including lethal force) against an indi-*  
15       *vidual in the defense of the flight deck of an aircraft in*  
16       *air transportation or intrastate air transportation.*

17          “(h) *LIMITATION ON LIABILITY.—*

18           “(1) *LIABILITY OF AIR CARRIERS.—An air car-*  
19       *rier shall not be liable for damages in any action*  
20       *brought in a Federal or State court arising out of a*  
21       *Federal flight deck officer’s use of or failure to use a*  
22       *firearm.*

23           “(2) *LIABILITY OF FEDERAL FLIGHT DECK OFFI-*  
24       *CERS.—A Federal flight deck officer shall not be liable*  
25       *for damages in any action brought in a Federal or*



1       *State court arising out of the acts or omissions of the*  
2       *officer in defending the flight deck of an aircraft*  
3       *against acts of criminal violence or air piracy unless*  
4       *the officer is guilty of gross negligence or willful mis-*  
5       *conduct.*

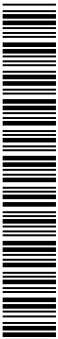
6               “(3) *LIABILITY OF FEDERAL GOVERNMENT.*—*For*  
7       *purposes of an action against the United States with*  
8       *respect to an act or omission of a Federal flight deck*  
9       *officer, the officer shall be treated as an employee of*  
10       *the Federal Government.*

11              “(i) *DURATION OF PROGRAM.*—

12               “(1) *IN GENERAL.*—*Except as otherwise provided*  
13       *in this subsection, the pilot program established under*  
14       *this section shall be in effect for a period of 2 years*  
15       *beginning on the date that the 250th pilot is depu-*  
16       *tized as a Federal flight deck officer under this sec-*  
17       *tion.*

18               “(2) *RISK-BENEFIT DETERMINATION DECI-*  
19       *SION.*—*Before the last day of such 2-year period, the*  
20       *Under Secretary shall determine whether the security*  
21       *benefits of the Federal flight deck officer pilot pro-*  
22       *gram outweigh the risks of the program.*

23               “(3) *TERMINATION OF PILOT PROGRAM.*—*If the*  
24       *Under Secretary determines under paragraph (2) that*  
25       *the risks outweigh the benefits, the Under Secretary*



1       *shall publish a notice in the Federal Register termi-*  
2       *nating the pilot program and explaining the reasons*  
3       *for the decision to terminate and shall provide ade-*  
4       *quate notice of the decision to Federal flight deck offi-*  
5       *cers and other individuals as necessary.*

6               “(4) CONTINUATION OF PROGRAM.—

7               “(A) IN GENERAL.—If the Under Secretary  
8       *determines under paragraph (2) that the benefits*  
9       *outweigh the risks, the Under Secretary shall*  
10       *publish a notice in the Federal Register an-*  
11       *nouncing the continuation of the program, shall*  
12       *continue the program in accordance with this*  
13       *section, and may increase the number of Federal*  
14       *flight deck officers participating in the program.*

15               “(B) NOTICE OF PROPOSED RULEMAKING.—  
16       *Not later than 60 days after the date of publica-*  
17       *tion of a notice continuing the program, the*  
18       *Under Secretary shall issue a notice of proposed*  
19       *rulemaking to provide for continuation of the*  
20       *program. In conducting the proposed rule-*  
21       *making, the Under Secretary shall readdress*  
22       *each of the issues to be addressed under sub-*  
23       *section (b)(3) and, in addition, shall address the*  
24       *following issues:*



1                   “(i) *The use of various technologies by*  
2                   *Federal flight deck officers, including smart*  
3                   *gun technologies and nonlethal weapons.*

4                   “(ii) *The necessity of hardening crit-*  
5                   *ical avionics, electrical systems, and other*  
6                   *vulnerable equipment on aircraft.*

7                   “(iii) *The standards and circumstances*  
8                   *under which a Federal flight deck officer*  
9                   *may use force (including lethal force)*  
10                  *against an individual in defense of the*  
11                  *flight deck of an aircraft.*

12                  “(5) *REEVALUATION.—Not later than 3 years*  
13                  *after the date of publication of a notice continuing the*  
14                  *program, the Under Secretary shall reevaluate the*  
15                  *program and shall report to Congress on whether, in*  
16                  *light of additional security measures that have been*  
17                  *implemented (such as reinforced doors and universal*  
18                  *employee biometric identification), the program is*  
19                  *still necessary and should be continued or terminated.*

20                  “(j) *APPLICABILITY.—*

21                  “(1) *EXEMPTION.—This section shall not apply*  
22                  *to air carriers operating under part 135 of title 14,*  
23                  *Code of Federal Regulations, and to pilots employed*  
24                  *by such carriers to the extent that such carriers and*



1       *pilots are covered by section 135.119 of such title or*  
2       *any successor to such section.*

3               “(2) *PILOT DEFINED.*—*The term ‘pilot’ means*  
4       *an individual who has final authority and responsi-*  
5       *bility for the operation and safety of the flight or, if*  
6       *more than 1 pilot is required for the operation of the*  
7       *aircraft or by the regulations under which the flight*  
8       *is being conducted, the individual designated as sec-*  
9       *ond in command.”.*

10       *(b) CONFORMING AMENDMENTS.*—

11               *(1) CHAPTER ANALYSIS.*—*The analysis for such*  
12       *chapter is amended by inserting after the item relat-*  
13       *ing to section 44920 the following:*

*“44921. Federal flight deck officer program.”.*

14               *(2) FLIGHT DECK SECURITY.*—*Section 128 of the*  
15       *Aviation and Transportation Security Act (Public*  
16       *Law 107–71) is repealed.*

17       *(c) FEDERAL AIR MARSHAL PROGRAM.*—

18               *(1) SENSE OF CONGRESS.*—*It is the sense of*  
19       *Congress that the Federal air marshal program is*  
20       *critical to aviation security.*

21               *(2) LIMITATION ON STATUTORY CONSTRUC-*  
22       *TION.*—*Nothing in this Act, including any amend-*  
23       *ment made by this Act, shall be construed as pre-*  
24       *venting the Under Secretary of Transportation for Se-*



1        *curity from implementing and training Federal air*  
2        *marshals.*

3    **SEC. 3. CREW TRAINING.**

4        *Section 44918(e) of title 49, United States Code, is*  
5        *amended—*

6                *(1) by striking “The Administrator” and insert-*  
7        *ing the following:*

8                *“(1) IN GENERAL.—The Under Secretary”;*

9                *(2) by adding at the end the following:*

10               *“(2) ADDITIONAL REQUIREMENTS.—In updating*  
11        *the training guidance, the Under Secretary, in con-*  
12        *sultation with the Administrator, shall issue a rule*  
13        *to—*

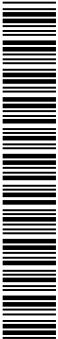
14                *“(A) require both classroom and hands-on*  
15        *situational training in the following elements of*  
16        *self defense:*

17                *“(i) recognizing suspicious activities*  
18        *and determining the seriousness of an oc-*  
19        *currence;*

20                *“(ii) deterring a passenger who might*  
21        *present a problem;*

22                *“(iii) crew communication and coordi-*  
23        *nation;*

24                *“(iv) the proper commands to give to*  
25        *passengers and attackers;*



1                   “(v) *methods to restrain an attacker;*

2                   “(vi) *use of available items aboard the*  
3                   *aircraft for self-defense;*

4                   “(vii) *appropriate responses to defend*  
5                   *oneself, including the use of force against an*  
6                   *attacker;*

7                   “(viii) *use of protective devices as-*  
8                   *signed to crew members (to the extent such*  
9                   *devices are approved by the Administrator*  
10                   *or Under Secretary);*

11                   “(ix) *the psychology of terrorists to*  
12                   *cope with their behavior and passenger re-*  
13                   *sponses to that behavior;*

14                   “(x) *how to respond to aircraft maneu-*  
15                   *vers that may be authorized to defend*  
16                   *against an act of criminal violence or air*  
17                   *piracy;*

18                   “(B) *require training in the proper conduct*  
19                   *of a cabin search;*

20                   “(C) *establish the required number of hours*  
21                   *of training and the qualifications for the train-*  
22                   *ing instructors;*

23                   “(D) *establish the intervals, amount, and*  
24                   *elements of recurrent training;*





1           “(E) ensure that air carriers provide the  
2           initial training required by this paragraph  
3           within 24 months of the date of enactment of this  
4           subparagraph; and

5           “(F) ensure that no person is required to  
6           participate in any hands-on training activity  
7           that that person believes will have an adverse  
8           impact on his or her health or safety.

9           “(3) *RESPONSIBILITY OF UNDER SECRETARY.*—  
10          *In developing the rule under paragraph (2), the*  
11          *Under Secretary shall consult with law enforcement*  
12          *personnel and security experts who have expertise in*  
13          *self-defense training, terrorism experts, and represent-*  
14          *atives of air carriers, employees of air carriers, and*  
15          *educational institutions offering law enforcement*  
16          *training programs.”; and*

17          *(3) by aligning the remainder of the text of*  
18          *paragraph (1) (as designated by paragraph (1) of this*  
19          *section) with paragraphs (2) and (3) (as added by*  
20          *paragraph (2) of this section).*

21   **SEC. 4. COMMERCIAL AIRLINE SECURITY STUDY.**

22          (a) *STUDY.*—*The Secretary of Transportation shall*  
23          *conduct a study of the following:*

24                  (1) *The number of armed Federal law enforce-*  
25          *ment officers (other than Federal air marshals), who*



1       *travel on commercial airliners annually and the fre-*  
2       *quency of their travel.*

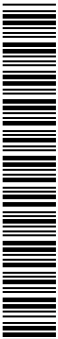
3           *(2) The cost and resources necessary to provide*  
4       *such officers with supplemental training in aircraft*  
5       *anti-terrorism training that is comparable to the*  
6       *training that Federal air marshals are provided.*

7           *(3) The cost of establishing a program at a Fed-*  
8       *eral law enforcement training center for the purpose*  
9       *of providing new Federal law enforcement recruits*  
10       *with standardized training comparable to the train-*  
11       *ing that Federal air marshals are provided.*

12           *(4) The feasibility of implementing a certifi-*  
13       *cation program designed for the purpose of ensuring*  
14       *Federal law enforcement officers have completed the*  
15       *training described in paragraph (2) and track their*  
16       *travel over a 6-month period.*

17           *(5) The feasibility of staggering the flights of*  
18       *such officers to ensure the maximum amount of flights*  
19       *have a certified trained Federal officer on board.*

20       *(b) REPORT.—Not later than 6 months after the date*  
21       *of enactment of this Act, the Secretary shall transmit to*  
22       *Congress a report on the results of the study. The report*  
23       *may be submitted in classified and redacted form.*



1 **SEC. 5. TECHNICAL AMENDMENTS.**

2 *Section 44903 of title 49, United States Code, is*  
3 *amended—*

4 *(1) by redesignating subsection (i) (relating to*  
5 *short-term assessment and deployment of emerging se-*  
6 *curity technologies and procedures) as subsection (j);*

7 *(2) by redesignating the second subsection (h)*  
8 *(relating to authority to arm flight deck crew with*  
9 *less-than-lethal weapons) as subsection (i); and*

10 *(3) by redesignating the third subsection (h) (re-*  
11 *lating to limitation on liability for acts to thwart*  
12 *criminal violence for aircraft piracy) as subsection*  
13 *(k).*

